

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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PAVLE ZIVKOVIC,

Plaintiff,

Case No.:

v.

1:22-cv-07344 (GHW)

VALBELLA AT THE PARK, LLC,

Defendant.

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Zoom Video Conference

February 8, 2023

11:08 a.m.

EXAMINATION BEFORE TRIAL of ROSEY KALAYJIAN, the
Plaintiff in the above-entitled action, held via Zoom Video
Conference taken before ELIZABETH SANTOS, a Notary Public of
the State of New York, pursuant to order and stipulations
between Counsel.

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A P P E A R A N C E S:

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BY: FRED SEEMAN, ESQ.

Also present: Lucas Buzzard (Kirschenbaum, Sitting In)
Pavle Zivkovic (Plaintiff, Sitting In)

1 ROSEY KALAYJIAN

2 was so long ago, I honestly don't remember.

3 Q. Is there any reason we would not
4 have the amendment to this agreement that you
5 can think of?

6 A. No.

7 Q. It lists the restaurant for
8 compensation, do you see that?

9 A. Um-hum, yes.

10 Q. And it says Oak Grove manager will
11 receive additional compensation including A,
12 a salary, B, a percentage of the net profits
13 before distribution to the members and, C, a
14 key man insurance policy with the beneficiary
15 to be determined by Oak Grove manager, do you
16 see that?

17 A. Yes.

18 Q. Mr. Ghatanfard receives a salary?

19 A. As stated, yes.

20 Q. Does he receive a portion of the
21 net profits before distribution to the
22 members?

23 A. He hasn't.

24 Q. Why hasn't he?

25 A. I don't know. He hasn't.

1 ROSEY KALAYJIAN

2 Q. Have there been any distributions
3 to the members?

4 A. Yes.

5 Q. Okay. How many times have there
6 been distributions to the members?

7 A. I don't recall the number of times.

8 Q. Okay. More or less than five?

9 A. I don't know.

10 Q. The restaurant has been open for 11
11 months, right?

12 A. Yes.

13 Q. Okay. You don't remember within
14 the last 11 months there have been more or
15 less than five distributions to the members?

16 A. There's been distributions, how
17 many, I don't recall.

18 Q. There's been more than one?

19 A. Yes.

20 Q. When a distribution is made to Oak
21 Grove LLC is that paid into Oak Grove LLC
22 Bank of America bank account?

23 A. Correct.

24 Q. Has that ever been paid anywhere
25 else?

1 ROSEY KALAYJIAN

2 A. No.

3 Q. The money paid at distribution from
4 Valbella At The Park to Oak Grove LLC after
5 it's deposited into Oak Grove account, where
6 has the money gone?

7 A. Reimbursed myself for my
8 investment.

9 Q. Has David Ghatanfard been
10 reimbursed?

11 A. No.

12 Q. When you reimbursed yourself for
13 your investment which account are you
14 reimbursing it to?

15 A. Oak Grove Road is reimbursing me.

16 Q. And how does Oak Grove Road pay
17 you?

18 A. Oak Grove Road pays me from a
19 check, with the check and I deposit it into
20 my bank account.

21 Q. Into your Citi account, right?

22 A. Correct.

23 Q. You said right now you only have
24 one bank account, right?

25 A. Yes.

1 ROSEY KALAYJIAN

2 Q. Do you currently have any
3 investment accounts?

4 A. I do.

5 Q. With which company?

6 A. Charles Schwab. I don't recall all
7 the ones I have.

8 Q. And the profit that comes from
9 Valbella the Oak Grove that you then deposit
10 into your Citi account, some of those
11 proceeds are used to support yours and
12 David's life, correct?

13 A. Correct.

14 Q. Like some of those proceeds are
15 used to pay for the mortgage, correct?

16 A. Yes.

17 Q. The Oak Grove house is mortgage is
18 paid from your Citi account, correct?

19 A. Yes.

20 Q. Do you know how much in total has
21 been distributed to the members?

22 A. I do not.

23 Q. You said you are paying yourself
24 back, if I heard correctly?

25 A. Yes, and I told you earlier you

1 ROSEY KALAYJIAN

2 asked how many distributions, I don't recall
3 the number.

4 Q. You also said you don't know how
5 much you invested now you are saying you
6 don't know how much you paid yourself back;
7 is that right?

8 A. Right, I don't have my bookkeeping
9 with me.

10 Q. You have your own personal record
11 of how much you invested?

12 A. In my -- at my computer at my job,
13 I do.

14 Q. You have a record of how much you
15 have reimbursed yourself, for yourself?

16 A. Yes, at work.

17 Q. Does Oak Grove LLC keep records of
18 how much it's been paid back?

19 A. I don't know. You have to ask my
20 accountant.

21 Q. It says in section 3 that the Oak
22 Grove manager is entitled to a key man life
23 insurance policy, that manager is David
24 Ghatanfard. Are you familiar with that life
25 insurance policy?

1 ROSEY KALAYJIAN

2 A. He doesn't have one.

3 Q. Do you know if a key man life
4 insurance policy was set up for David
5 Ghatanfard?

6 A. I know we did not set one up for
7 him.

8 Q. Do you know why not?

9 A. We just haven't, too busy.

10 Q. I want to clarify, you said the net
11 profits before distribution have been paid to
12 the manager?

13 MR. SEEMAN: Can you repeat that.

14 Q. Has the Oak Grove manager received
15 a portion of the net profits?

16 A. No.

17 Q. So why hasn't Subsection B of 3
18 been fulfilled?

19 A. I don't know.

20 Q. Wouldn't that mean that the members
21 of Valbella At The Park LLC are taking a
22 distribution before the time that they are
23 supposed to be paying David Ghatanfard?

24 MR. SEEMAN: Objection.

25 A. I don't know.

1 ROSEY KALAYJIAN

2 Q. Why are they not fulfilling this in
3 terms of this agreement?

4 A. I don't know.

5 MR. SEEMAN: Objection.

6 Q. Has David Ghatanfard ever
7 complained that Valbella is not fulfilling
8 the term of this agreement, has he ever
9 complained to you?

10 A. Not to me.

11 Q. I mean would it make sense he would
12 forgo his percentage of the net profits that
13 he's entitled to before any distribution?

14 MR. SEEMAN: Objection.

15 A. I don't know.

16 Q. Are you able to make sense right
17 now sitting here today, are you able to make
18 sense of the fact he would forgo any portion
19 of the net profits that he's entitled to
20 before members of the company get paid?

21 MR. SEEMAN: Objection.

22 A. I do not know.

23 Q. Do you have any explanation at all?

24 A. I do not.

25 MR. SEEMAN: Objection.